



This document is scheduled to be published in the Federal Register on 08/09/2012 and available online at <http://federalregister.gov/a/2012-19487>, and on [FDsys.gov](http://FDsys.gov)

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**[Docket No. FWS–R1–ES–2011–0098]**

**[4500030113]**

**RIN 1018–AX14**

**Endangered and Threatened Wildlife and Plants; Listing 38 Species on Molokai, Lanai, and Maui as Endangered and Designating Critical Habitat on Molokai, Lanai, Maui, and Kahoolawe for 135 Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are extending the comment period on our proposed rule to, among other things, list 38 species on the Hawaiian Islands of Molokai, Lanai, and Maui as endangered species under the

Endangered Species Act of 1973, as amended, and designate critical habitat on Molokai, Lanai, Maui, and Kahoolawe for 135 species. We made the proposed rule available for public comment on June 11, 2012.

**DATES:** The comment period end date is September 10, 2012. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see

**ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After September 10, 2012, you must submit information directly to the **Division of Policy and Directives Management** (see **ADDRESSES** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

**ADDRESSES:** You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

*<http://www.regulations.gov>*. In the Search box, enter FWS–R1–ES–2011–0098, which is the docket number for this action. Then click on the Search button. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2011–0098; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Loyal Mehrhoff, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Box 50088, Honolulu, HI 96850; by telephone at 808–792–9400; or by facsimile at 808–792–9581. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On June 11, 2012 (77 FR 34464), we published in the **Federal Register**, for review and comment, a proposed rule to list 38 species (35 plants and 3 tree snails) on the Hawaiian Islands of Molokai, Lanai, and Maui as endangered species, and concurrent designation of 271,062 acres (ac) (109,695 hectares (ha)) as critical habitat. We are also proposing revision of critical habitat for 85 plants and designation of critical habitat for 11 listed plants and animals that do not have designated critical habitat on these islands. Approximately 47 percent of the area being proposed as critical habitat is already designated as critical habitat for the 85 plant species or for other species. We also propose to delist the plant *Gahnia lanaiensis*, due to new information that this species is synonymous with *G. lacera*, a widespread species from New Zealand. In addition, we propose name changes or corrections for 11 endangered plants and 2 endangered birds,

and we propose to reaffirm the listings for 2 endangered plant species with taxonomic revisions. We are also considering excluding approximately 40,973 ac (16,581 ha) of privately owned lands on Maui and Molokai.

We received a request to extend the public comment period beyond the August 10, 2012, due date on our June 11, 2012 (77 FR 34464), proposal. We are working with our partners and local landowners to inform them of the proposed listings and critical habitat designations. In order to ensure that the public has an adequate opportunity to review and comment on our proposed rule, we are extending the comment period for an additional 30 days.

### **Request for Information**

We will accept written comments and information during this extended comment period. We will consider information and recommendations from all interested parties and intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we solicit comments or suggestions on this proposed rule from the public, other concerned governmental agencies, the scientific community, industry, or other interested parties. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning threats (or the lack thereof) to the 40 species proposed or being reevaluated for listing, and regulations that may be addressing those threats.

(2) Additional information concerning the range, distribution, and population sizes of each of the 40 species proposed or being reevaluated for listing, including the locations of any additional populations of these species.

(3) Any information on the biological or ecological requirements of the 40 species proposed or being reevaluated for listing.

(4) The reasons why we should or should not designate areas for any of the species in this proposal as “critical habitat” under section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether there are threats to these species from human activity, the degree to which can be expected to increase due to the designation, and whether the benefit of designation would outweigh threats to these species caused by the designation, such that the designation of critical habitat is prudent.

(5) Whether a revision of critical habitat is warranted for the 85 plant species that are already listed as endangered or threatened under the Act and that currently have designated critical habitat.

(6) Specific information on:

- The amount and distribution of critical habitat for the species included in this proposed rule;
- What areas currently occupied, and that contain the necessary physical or

biological features essential for the conservation of the species, we should include in the designation and why;

- Whether special management considerations or protections may be required for the physical or biological features essential to the conservation of the species in this proposed rule; and
- What areas not currently occupied are essential to the conservation of the species and why.

(7) Land use designations and current or planned activities in the areas occupied by the species, and the possible impacts of critical habitat on these designations or activities.

(8) Any foreseeable economic, national security, or other relevant impacts of designating any area as critical habitat. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas that may experience these impacts.

(9) Whether the benefits of excluding any particular area from critical habitat outweigh the benefits of including that area as critical habitat under section 4(b)(2) of the Act, after considering the potential impacts and benefits of the proposed critical habitat designation. Under section 4(b)(2), the Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of including that particular area as critical habitat, unless failure to designate that specific

area as critical habitat will result in the extinction of the species. We request specific information on:

- The benefits of including specific areas in the final designation and supporting rationale;
- The benefits of excluding specific areas from the final designation and supporting rationale; and
- Whether any specific exclusions may result in the extinction of the species and why.

(10) Whether the proposed critical habitat on private lands and under consideration for exclusion under section 4(b)(2) of the Act should or should not be excluded and why.

(11) Information concerning any habitat conservation or management plans, conservation plans or programs, or other such agreements for our consideration under section 4(b)(2) of the Act.

(12) Information on the projected and reasonably likely impact of climate change on the species included in this proposed rule, and any special management needs or protections that may be needed in the critical habitat areas we are proposing.

(13) Information on any special management needs or protections that may be needed in the critical habitat areas we are proposing.

(14) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

(15) Our proposal to revise taxonomic classifications with name changes or family changes for 11 plant species and 2 bird species identified in the proposed rule.

(16) Specific information on ways to improve the clarity of this rule as it pertains to completion of consultations under section 7 of the Act.

For more background on our proposed rule, see the June 11, 2012, **Federal Register**. The proposed rule is available at the Federal eRulemaking Portal at <http://www.regulations.gov> (see **ADDRESSES** section above).

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final rulemaking. Our final determination concerning this proposed rulemaking will take into consideration all written comments and any additional information we receive.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments **only** by

the methods described in **ADDRESSES**.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. We will post all hardcopy comments on <http://www.regulations.gov> as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on <http://www.regulations.gov> at Docket No. FWS–R1–ES–2011–0098, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at <http://www.regulations.gov> at Docket No. FWS–R1–ES–2011–0098, or by mail from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this notice are the staff of the U.S. Fish and Wildlife Service.

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 30, 2012

Rowan W. Gould

Acting Director, U.S. Fish and Wildlife Service

**Billing Code 4310-55-P**

[FR Doc. 2012-19487 Filed 08/08/2012 at 8:45 am; Publication Date: 08/09/2012]